

AN ACT concerning business.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Equipment Fair Dealership Law is amended by changing Sections 2, 4, 5, and 7 as follows:

(815 ILCS 715/2) (from Ch. 5, par. 1502)

Sec. 2. As used in this Act unless the context clearly requires otherwise:

(1) "Current net price" shall mean the price listed in the wholesaler's, manufacturer's, or distributor's price list in effect at the time the contract is canceled or discontinued, less any applicable trade, volume and/or cash discounts;

(2) "Inventory" shall mean farm implements, farm machinery, attachments, accessories and repair parts, outdoor power equipment including but not limited to all-terrain vehicles or off-highway motorcycles, construction equipment, industrial equipment, attachments, accessories and repair parts;

(3) "Net cost" shall mean the price the retailer actually paid for the merchandise to the wholesaler, manufacturer or distributor, plus freight from the wholesaler's, manufacturer's or distributor's location to the dealer's location;

(4) "Retailer" shall mean any person, firm or corporation engaged in the business of selling and retailing outdoor power equipment including but not limited to all-terrain vehicles or off-highway motorcycles, farm implements, farm machinery, attachments accessories or repair parts and retailers of construction or industrial equipment, attachments or accessories or repair parts, but shall not include retailers of petroleum and motor vehicles and related automotive care and replacement products normally sold by such retailers.

(Source: P.A. 86-259.)

(815 ILCS 715/4) (from Ch. 5, par. 1504)

Sec. 4. (1) The wholesaler, manufacturer or distributor shall repurchase that inventory previously purchased from him and held by the retailer at the date of termination of the contract. The wholesaler, manufacturer or distributor shall pay 100% of the net cost of all new, unsold, undamaged and complete outdoor power equipment including but not limited to all-terrain vehicles or off-highway motorcycles, farm implements, farm machinery, attachments and accessories, construction equipment, industrial equipment, attachments and accessories and 95% of the current net price of all new, unused and undamaged repair parts. The retailer shall pay the cost of transportation to the nearest warehouse maintained by the wholesaler, manufacturer or distributor, or to a mutually agreeable site. The wholesaler, manufacturer or distributor

shall pay the retailer 5% of the current net price on all new, unused and undamaged repair parts returned to cover the cost of handling, packing and loading. The wholesaler, manufacturer or distributor shall have the option of performing the handling, packaging and loading in lieu of paying the retailer 5% for these services; provided the same can be accomplished within 45 days of termination.

(2) Upon payment of the repurchase amount to the retailer, the title and right of possession to the repurchased inventory shall transfer to the wholesaler, manufacturer or distributor.

(Source: P.A. 86-259.)

(815 ILCS 715/5) (from Ch. 5, par. 1505)

Sec. 5. The provisions of this Act shall be supplemental to any agreement between the retailer and the manufacturer, wholesaler, or distributor covering the return of outdoor power equipment including but not limited to all-terrain vehicles or off-highway motorcycles, farm implements, farm machinery, attachments, accessories, and repair parts, construction equipment, industrial equipment, attachments, accessories, and repair parts so that the retailer can elect to pursue either his contract remedy or the remedy provided herein, and an election by the retailer to pursue his contract remedy shall not bar his right to the remedy provided herein as to those farm implements, farm machinery, attachments, accessories and repair parts not affected by the contract remedy.

(Source: P.A. 86-259; 86-820; 86-1028.)

(815 ILCS 715/7) (from Ch. 5, par. 1507)

Sec. 7. The provisions of this Act shall not require the repurchase from a retailer of:

(1) Any repair part which has a limited storage life and is in a deteriorated condition;

(2) Any repair part which is in a broken or damaged package;

(3) Any single repair part which is priced as a set of two or more items;

(4) Any repair part which because of its condition is not resalable as a new part without repackaging or reconditioning;

(5) Any inventory for which the retailer is unable to furnish evidence, satisfactory to the wholesaler, manufacturer or distributor, of title, free and clear of all claims, liens and encumbrances;

(6) Any inventory which the retailer desires to keep, provided the retailer has a contractual right to do so;

(7) Any outdoor power equipment including but not limited to all-terrain vehicles or off-highway motorcycles, farm implements, farm machinery, attachments and accessories, construction equipment, industrial equipment, attachments and accessories which are not in new, unused, undamaged, or complete condition;

(8) Any repair parts which are not in new, unused, or

undamaged condition;

(9) Any outdoor power equipment including but not limited to all-terrain vehicles or off-highway motorcycles, farm implements, farm machinery, attachments or accessories, construction equipment, industrial equipment, attachments or accessories which were purchased 24 months or more prior to notice of termination of the contract;

(10) Any inventory which was ordered by the retailer on or after the date of notification of termination of the contract;

(11) Any inventory which was acquired by the retailer from any source other than the wholesaler, manufacturer or distributor.

(12) Any repair parts not listed in the manufacturers' current price list in effect at date of notice of termination or classified as obsolete by the manufacturer. However, this exception to the repurchase requirement shall apply only if the wholesaler, manufacturer or distributor provided the retailer with the opportunity to return the parts prior to notice of termination of the dealership.

(Source: P.A. 86-259.)

Section 99. Effective date. This Act takes effect upon becoming law.